

June 18, 2003

Re: New Proposed Child Support Guidelines/Shared Economic Responsibility Formula

Supreme Court Administrative File No. 2003-22

Dear Office of Clerk of Supreme Court:

I am writing regarding the new proposed Child Support Formula/Guidelines and some serious concerns that I see as a Family Law Practitioner in West Michigan. As background, I have practiced in that capacity for almost nine (9) years. After reading the 2003 proposal Formula Manual, the Supreme Court Memoranda, as well as, after attending the annual ICLE Continuing Legal Education Seminar, I see a serious concern that is not being addressed by the guidelines.

Out here in the practicing world, the reality of the "hundred and twenty-eight day" (128) cliff was that it also helped practitioners and judges designate the hallmark of **joint physical custody**. In other words, if a parent reached 128 overnights, they were designated as having joint physical custody. What I am hearing is that Judges and practitioners interpret the new 52 day threshold as meaning that, that will then be interpreted as joint physical custody. I think this is a grave danger to children, in that having primary physical placement with one parent has been a hallmark of the Child Custody Act, Case Law, and Practice.

The discussion has been among practitioners and judges that, by making 52 days shared economic responsibility, it will also be the bench mark for joint physical custody. My understanding is this is not the intention of the proposed guideline committee, and would certainly not be in the best interest of children who need primary placement residence and parent. Leaving the issue of whether 52 days means, or does not mean, joint physical custody will leave this issue wide open for litigation, and also will be interrupted by many courts as meaning that the Shared Economic Responsibility of 52 days also means that it is now the new threshold for Joint Physical Custody. As a family practitioner who sees children and families divided on a daily basis, I can honestly say that, although sometimes 50/50 joint physical custody situation works, most times it does not. Many times it is important for children to have a grounded primary placement, with regular and reasonable parenting time with the other party. It is also important for Health Care Providers, schools, and children on their own part, to feel that there is a primary home. Changing the Shared Economic Responsibility to 52

days, without some written address of the issue of joint physical custody will potentially take this away from children, as I believe courts will interpret this as the new threshold for joint physical custody.

Some language in the guidelines/formula book, stating that 52 days as the guideline amount should not be interpreted as meaning that Joint Physical Custody begins at 52 days, or something to that effect I believe is necessary. If this is not addressed, I believe that the new formula has a potential for leaving the children without a primary placement in almost every case and a new sea of litigation.

Thank you for considering my comments. Please don't hesitate to contact me with questions or concerns.

Sincerely,

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